

ORIGINAL**BEFORE THE BOARD OF ARCHITECTURAL EXAMINERS****STATE OF IDAHO**

In the Matter of the License of:)	
)	Case No. ARC-2008-3
DENNIS T. MITCHELL,)	
License No. AR-1582,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
)	

WHEREAS, information has been received by the Idaho State Board of Architectural Examiners (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Dennis T. Mitchell ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the practice of architecture in the State of Idaho in accordance with title 54, chapter 3, Idaho Code.

A.2. The Board has issued License No. AR-1582 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 3, Idaho Code and the Board's rules at IDAPA 24.01.01, *et seq.*

A.3. Idaho Code § 54-305(1)(h) and Board Rules 4 and 750 provide that the Board may discipline a licensee for violation of the NCARB Rules of Conduct (August 2004). NCARB Rule of Conduct 4.3 states in pertinent part that an "architect may be subject to disciplinary action if, based on grounds substantially similar to those which lead to disciplinary action in this jurisdiction, the architect is disciplined in any other United States jurisdiction."

A.4. Idaho Code § 54-308(4)(d) provides that an architect may sign and seal

technical submissions prepared by another architect licensed in another state only if (1) the signing and sealing architect has reviewed the other architect's work and has integrated the work into his or her own technical submissions, and (2) the other architect's technical submissions are prototypical building documents.

A.5. On or about March 22, 2005, Respondent entered into a Settlement Agreement & Consent Order with the Kansas Board of Technical Professions in Case No. 02-23, a copy of which is attached as Exhibit A. In that Settlement Agreement & Consent Order, Respondent admitted that he:

stamped and sealed the plans and specifications for an adult daycare center located in Winfield, Kansas, which were neither prepared by him or under his direct supervision and control but rather were prepared by an architect licensed in another state and Mr. Mitchell failed to complete a detailed review and evaluation of the documents.

A.6. The allegations of Paragraph A.5, if proven, violate the laws and rules governing the practice of architecture, specifically Idaho Code § 54-305(1)(h) (Board may discipline a licensee for a violation of the NCARB Rules of Conduct), and constitute grounds for disciplinary action against Respondent's license to practice architecture in the State of Idaho.

B. Waiver of Procedural Rights

I, Dennis T. Mitchell, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraph A.5. I further understand that these allegations constitute cause for disciplinary action upon my license to practice architecture in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act

of the State of Idaho and the laws and rules governing the practice of architecture in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. Respondent shall pay to the Board an administrative fine in the amount of Five Hundred and No/100 Dollars (\$500.00) within ten (10) days of the entry of the Board's Order.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of Seven Hundred Ninety-Eight and No/100 Dollars (\$798.00) within thirty (30) days of the entry of the Board's Order.

C.3. Respondent's License No. AR-1582 shall be placed on probation for a period of three (3) months from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of architecture in the State of Idaho.

b. Respondent shall inform the Board of any and all projects that he is working on that will be constructed in Idaho or are proposed to be constructed in Idaho.

c. Respondent shall provide the Board with evidence that he has complied with the Settlement Agreement & Consent Order in Kansas State Board of Technical Professions Case No. 02-23.

C.4. At the conclusion of the three-month probationary period and provided Respondent has complied with all other terms of this Stipulation, Respondent may request from the Board termination of the conditions of probation. Any request for termination of probation must be accompanied by written proof of compliance with the terms of this Stipulation.

C.5. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.6. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and

Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

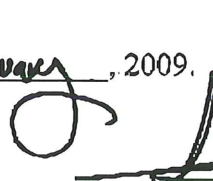
E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If

the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

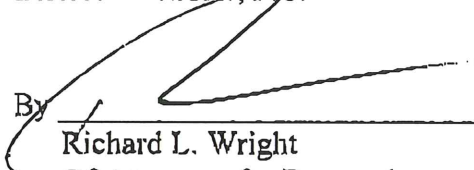
DATED this 26 day of January, 2009.


Dennis T. Mitchell
Respondent

Approved as to form.

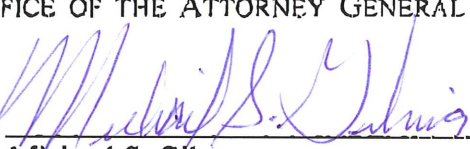
DATED this 27th day of January, 2009.

BISHOP*WRIGHT, P.C.

By 
Richard L. Wright
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 12th day of May, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
By 
Michael S. Gilmore
Deputy Attorney General

05/11/2009 16:37

BISHOP*WRIGHT PC

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ORDER

Pursuant to Idaho Code § 54-312, the foregoing is adopted as the decision of the Board of Architectural Examiners in this matter and shall be effective on the 25 day of June, 2009. IT IS SO ORDERED.

IDAHO STATE BOARD
OF ARCHITECTURAL EXAMINERS

By



Shelly Servick, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of June, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Dennis T. Mitchell
6031 West I-20, Suite 260
Arlington, TX 76017


- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Richard L. Wright
BISHOP*WRIGHT, P.C.
1701 N. Market Street, Suite 410
Dallas, TX 75202

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Michael S. Gilmore
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses